

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)
)
)
)
v.)
)
) Docket no. 04-cr-23-P-S
JESTINA WEEMS,)
)
)
)
Defendant.)
)

ORDER DENYING REQUEST FOR SENTENCE REDUCTION

Before the Court is a letter from the Defendant, dated January 28, 2008 (Docket # 482), which this Court has docketed and treated as a motion to appoint counsel and a motion to reduce sentence. Via this submission, the Defendant ultimately seeks a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and the recent amendments to the Sentencing Guidelines related to crack cocaine. At the original sentencing on February 25, 2005, the Court ultimately imposed a variant sentence of 60 months pursuant to Booker and the factors laid out in 18 U.S.C. § 3553(a). The Court imposed this sentence after determining that under the Sentencing Guidelines the Defendant had a total offense level of 28 and a criminal history category of I.

Defendant's Motion is correctly premised on the fact that the retroactive amendment of the crack cocaine Guideline lowered the base offense level for 103 grams of cocaine base (the amount for which she was held accountable) from 32 to 30. However, this change in the base offense level does not ultimately lower the base offense level for this Defendant. As the Court's review of the file makes clear, Defendant's base

offense level was lowered to 30 at the time of her sentencing based on a mitigating role adjustment allowed under USSG § 2D1.1(a)(3). Under the amended Guidelines, Defendant would not receive a similar two level reduction. Thus, the Court has concluded that Defendant's total offense level would remain 28 even with the application of the retroactive amendment. In the Court's assessment, the 60 month sentence originally imposed remains appropriate even though it falls well below the 78-97 month Guideline range for a total offense level of 28 and criminal history category of I.

Because the amendment does not result in a lower Guideline calculation for this Defendant, the Court may not reduce the sentence pursuant to 18 U.S.C. § 3582(c). For this reason, the Court hereby DENIES Defendant's Motion.

SO ORDERED.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 19th day of February, 2008.